

**CHAPTER 157 OF THE ACTS OF 2005
AND
CHAPTER 143 OF THE ACTS OF 2005**

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CHAPTER 157 OF THE ACTS OF 2005

Passage of Chapter 157 of the Acts of 2005

On November 22, 2005, the Governor signed Chapter 157 of the Acts of 2005, an Act that provides Section 7 accidental disability retirees with a veteran's benefit. Chapter 157 of the Acts of 2005 became effective on November 23, 2005. Please refer to PERAC Memo #36/2005 and PERAC Memo #14/2006.

The Definition of a Veteran under Sections 1 and 2 of Chapter 157 of the Acts of 2005

Section 1 of Chapter 157 of the Acts of 2005 states that any member of Group 1 or Group 2 or Group 4 who retires due to an accidental disability who is a veteran will receive an additional yearly retirement allowance of \$15 for each year of creditable service or a fraction thereof, and the total amount of this additional yearly retirement allowance will not exceed \$300. Section 1 is subject to acceptance by both the Retirement Board and local legislative body. The definition of a "veteran" set forth in G.L. c. 4 § 7 cl. 43 as amended by Chapter 166 of the Acts of 2004, and explained in PERAC Memo #21/2004, will be used to determine a retiree's eligibility under Chapter 157 of the Acts of 2005. *If a retiree is a veteran under the current definition of G.L. c. 4 § 7 cl. 43, the retiree is entitled to a Section 1 allowance under Chapter 157 of the Acts of 2005.*

Section 2 of Chapter 157 of the Acts of 2005 makes the allowance retroactive to a retiree's date of retirement. Section 2 is subject to acceptance by both the Retirement Board and local legislative body. If Section 2 is accepted, payments will be retroactive to the date of retirement for living retirees only. *If a retiree was a veteran under the definition of G.L. c. 4 § 7 cl. 43 in effect at the time of retirement, the retiree is entitled to a Section 2 allowance under Chapter 157 of the Acts of 2005.*

Voting to Accept Section 1 or Sections 1 and 2 of Chapter 157 of the Acts of 2005

A retirement board must have a majority vote on each section of Chapter 157 of the Acts of 2005 for that section to be accepted. The first majority vote is an acceptance of Section 1 of Chapter 157 of the Acts of 2005 establishing the benefit. The second majority vote is an acceptance of Section 2 of Chapter 157 of the Acts of 2005 providing retroactive benefits for retirees prior to the effective date. The retirement board can accept Section 1 even if it does not accept Section 2. The retirement board cannot accept Section 2 without accepting Section 1.

Chapter 157 of the Acts of 2005 becomes effective by the majority vote(s) of a jurisdiction's retirement board subject to approval by the legislative body of that system. The legislative authority cannot accept Chapter 157 of the Acts of 2005 without prior approval by the retirement board. However, the legislative body can reject the approval of the retirement board, and decline to accept both Sections 1 and 2 or only accept Section 1 while declining to accept Section 2.

For purposes of Chapter 157 of the Acts of 2005, legislative body means, in the case of a city, the city council in accordance with its charter, in the case of a town, the town meeting, in the case of a county, the county retirement board advisory council, in the case of a district, the district members, in the case of an authority, the governing body and in the case of a regional retirement system, the regional retirement board advisory council.

Retirement Board Accepts Section 1 Only and Section 1 is Approved by Legislative Body	Retirement Board Accepts Section 1 and Section 2 and Section 1 and Section 2 are Approved by Legislative Body	Retirement Board Declines Section 1 and Section 2	Retirement Board Accepts Section 1 and Section 2 and Legislative Body Approves Section 1 but Declines to Approve Section 2
Prospective Veteran Benefits Only	Both Prospective and Retroactive Veteran Benefits	No Veteran Benefits	Prospective Veteran Benefits Only

Notifying a Retiree of his or her Potential Allowance under Chapter 157 of the Acts of 2005

Upon acceptance of either or both sections of Chapter 157 of the Acts of 2005, the Retirement Board must notify each accidental disability retiree of a potential allowance as a veteran under Chapter 157 of the Acts of 2005. As accidental disability retirees who are veterans are not necessarily identified at their retirement, the duty is on the Retirement Board to send applications to all living accidental disability retirees to determine veteran eligibility under Section 1 or Sections 1 and 2 of Chapter 157 of the Acts of 2005. The enclosed two applications can be used to expedite this process. If Section 2 is accepted by both the Retirement Board and the legislative body, a retiree's application for the allowance must be made within 120 days from local acceptance. The Retirement Board will make payment within one year after receipt of the Section 2 application either in a lump sum or in installments.

- If the Retirement Board and legislative body have accepted BOTH Sections 1 and 2 of Chapter 157 of the Acts of 2005, the Retirement Board must send each accidental disability retiree the application for Section 1 and 2.
- If the Retirement Board and legislative body have accepted ONLY Section 1 of Chapter 157 of the Acts of 2005, the Retirement Board must send each accidental disability retiree ONLY the application for Section 1.

- If the Retirement Board and legislative body have not accepted either section of Chapter 157 of the Acts of 2005, the Retirement Board should send NO applications to accidental disability retirees.

Determining a Retiree's Eligibility as a Veteran under Chapter 157 of the Acts of 2005

The Retirement Board should request a DD-214 form from retirees who believe they are eligible for allowances under either section of Chapter 157 of the Acts of 2005. If a retiree has served in the United States Military during or prior to World War II and does not have a DD-214 form, the Retirement Board should request, from the retiree, any and all copies of official documents verifying his/her service in the United States Military. The Retirement Board should determine the eligibility of a retiree's status as a veteran based upon proper review of these documents. The Retirement Board's local veteran's agent may be of assistance in making this determination.

Allowances are Taxable and there is no Workers' Compensation Offset under Chapter 157 of the Acts of 2005

Under the legal advice of tax counsel, Ice Miller LLP, the Commission has determined that an allowance under Chapter 157 of the Acts of 2005 is taxable under federal laws, and that the IRS would conclude that an allowance under Chapter 157 of the Acts of 2005 is not a benefit in the nature of Workers' Compensation, and thus, is a taxable benefit. The reason for this conclusion is that an allowance under Chapter 157 of the Acts of 2005 is calculated entirely based upon a member's years of service.

Cost of Living Adjustments (COLA) under Chapter 157 of the Acts of 2005

The Commission has determined that an allowance made under Section 2 of Chapter 157 of the Acts of 2005 is a single payment calculated from the date of retirement and not a retroactive increase. Allowances made under Section 2 of Chapter 157 of the Acts of 2005 are not subject to COLA readjustment. Retirement Boards are not to recalculate and apply a COLA to the member's allowance prior to the enactment of Chapter 157 of the Acts of 2005. Going forward, the allowance payable under Chapter 157 of the Acts of 2005 will be a part of the COLA base.

Notice to the Commission regarding Chapter 157 of the Acts of 2005

A Retirement Board must send a letter of notice to the Commission within 120 days after the Retirement Board and legislative body take their vote(s). The notice should include the section(s) the Retirement Board has accepted or declined, whether the legislative body has accepted the vote(s) of the Retirement Board and copies of the minutes of the vote(s) of the Retirement Board and the legislative body.

**APPLICATION FOR AN ALLOWANCE UNDER SECTION 1 OF CHAPTER 157 OF THE ACTS OF 2005
FOR VETERANS WHO ARE ACCIDENTAL DISABILITY RETIREES**

On November 22, 2005, the Governor signed Chapter 157 of the Acts of 2005, an Act that provides Section 7 accidental disability retirees with a veteran's benefit.

The Definition of a Veteran under Section 1 of Chapter 157 of the Acts of 2005

Section 1 of Chapter 157 of the Acts of 2005 states that any member of Group 1 or Group 2 or Group 4 who retires due to an accidental disability who is a veteran will receive an additional yearly retirement allowance of \$15 for each year of creditable service or a fraction thereof, and the total amount of this additional yearly retirement allowance will not exceed \$300. *If you are an accidental disability retiree who is veteran you may be entitled to a Section 1 allowance under Chapter 157 of the Acts of 2005.*

Determining Eligibility as a Veteran under Chapter 157 of the Acts of 2005

Please send a DD-214 form along with the enclosed application to determine if you are eligible for an allowance under Section 1 of Chapter 157 of the Acts of 2005. If you served in the United States Military during or prior to World War II and do not have a DD-214 form, please send copies of any and all official documents verifying your service in the United States Military. The Retirement Board will determine your status as a veteran based upon proper review of these documents.

Please complete this application and send it along with your official DD-214 form or other official documentation of your veteran status to your Retirement Board to determine if you are a veteran who is eligible for this benefit.

Name: _____

Social Security Number: _____

Home Address: _____

Telephone Number: _____

Date of Retirement: _____

Are you a Veteran? Yes ☐ No ☐

I have enclosed a copy of my official DD-214 form or other official proof of my service in the United States Military along with this application.

Signature: _____

Date: _____

APPLICATION FOR AN ALLOWANCE UNDER SECTION 1 AND 2 OF CHAPTER 157 OF THE ACTS OF 2005 FOR VETERANS WHO ARE ACCIDENTAL DISABILITY RETIREES

On November 22, 2005, the Governor signed Chapter 157 of the Acts of 2005, an Act that provides Section 7 accidental disability retirees with a veteran's benefit.

The Definition of a Veteran under Section 1 of Chapter 157 of the Acts of 2005

Section 1 of Chapter 157 of the Acts of 2005 states that any member of Group 1 or Group 2 or Group 4 who retires due to an accidental disability who is a veteran will receive an additional yearly retirement allowance of \$15 for each year of creditable service or a fraction thereof, and the total amount of this additional yearly retirement allowance will not exceed \$300. *If you are an accidental disability retiree who is veteran you may be entitled to a Section 1 allowance under Chapter 157 of the Acts of 2005.*

The Definition of a Veteran under Section 2 of Chapter 157 of the Acts of 2005

Section 2 of Chapter 157 of the Acts of 2005 makes the allowance retroactive to a retiree's date of retirement. Payments will be retroactive to the date of retirement for ***living retirees only***. A retiree's application for the allowance must be made within 120 days from local acceptance. The Retirement Board will make payment within one year after receipt of Section 2 application either in a lump sum or in installments. *If you are an accidental disability retiree who was a veteran you may be entitled to a Section 2 allowance under Chapter 157 of the Acts of 2005.*

Determining Eligibility as a Veteran under Chapter 157 of the Acts of 2005

Please send a DD-214 form along with the enclosed application to determine if you are eligible for an allowance under Section 2 of Chapter 157 of the Acts of 2005. If you served in the United States Military during or prior to World War II and do not have a DD-214 form, please send copies of any and all official documents verifying your service in the United States Military. The Retirement Board will determine your status as a veteran based upon proper review of these documents.

Please complete this application and send it along with your official DD-214 form or other official documentation of your veteran status to your Retirement Board to determine if you are a veteran who is eligible for this benefit.

Name: _____

Social Security Number: _____

Home Address: _____

Telephone Number: _____

Date of Retirement: _____

Are you a Veteran? ☐ Yes ☐ No

I have enclosed a copy of my official DD-214 form or other official proof of my service in the United States Military along with this application.

Signature: _____ Date: _____

YOU MUST SEND THIS APPLICATION TO YOUR RETIREMENT BOARD BY THIS DATE:

**FAILING TO SEND YOUR APPLICATION TO YOUR RETIREMENT BOARD BY THE ABOVE DATE
MAY FORFEIT YOUR RIGHT TO AN ALLOWANCE UNDER SECTION 2 CHAPTER 157 OF THE
ACTS OF 2005**

Chapter 157 of the Acts of 2005

AN ACT RELATIVE TO DISABILITY RETIREMENT BENEFITS FOR VETERANS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Subdivision (2) of section 7 of chapter 32 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following paragraph:-

(e) Any member of Group 1 or Group 2 or Group 4, who is a veteran as defined in section 1, shall receive an additional yearly retirement allowance of \$15 for each year of creditable service or fraction thereof, but the total amount of this additional yearly retirement allowance shall not exceed \$300. This paragraph shall only take effect upon its acceptance by the majority vote of the board of a system, subject to the approval of the legislative body. For purposes of this paragraph, legislative body shall mean in the case of a city the city council in accordance with its charter, in the case of a town the town meeting, in the case of a county the county retirement board advisory council, in the case of a district the district members, in the case of an authority the governing body and in the case of a regional retirement system, the regional retirement board advisory council.

SECTION 2. An additional yearly retirement allowance which would have been payable under section 1 of this act, if that provision had been in effect and for which a member in service would have been eligible at the time of the member's retirement, shall be paid retroactively to the date of each such veteran's retirement. A veteran shall be eligible for payment of a retroactive additional yearly retirement allowance under this section only upon filing an application no later than 120 days after the effective date of this act, in a form that the appropriate retirement board, as defined in chapter 32 of the General Laws, shall prescribe. Payment under this section shall be made in a lump sum or in installments and shall be made in full within 1 year of the receipt of a completed and satisfactory application by the board. No payment shall be made under this act with respect to a person who is deceased. The appropriate retirement board shall provide reasonable notice to eligible retirees about the application process prescribed by this section. This section shall only take effect upon its acceptance by the majority vote of the board of a system, subject to the approval of the legislative body. For purposes of this paragraph, legislative body shall mean, in the case of a city, the city council in accordance with its charter, in the case of a town, the town meeting, in the case of a county, the county retirement board advisory council, in the case of a district, the district members, in the case of an authority, the governing body and in the case of a regional retirement system, the regional retirement board advisory council.

Approved November 22, 2005.

CHAPTER 143 OF THE ACTS OF 2005

On November 22, 2005 Governor Romney signed Chapter 143 of the Acts of 2005. This provision became effective on February 10, 2006 and allows retirees who selected Option A or Option B between July 1, 2004 and December 27, 2004 inclusive, or the surviving spouse of such a retiree, to select another Option. Retirees who selected Option C during the relevant time period are not eligible to select a new Option. The legislation also directs PERAC to select a new mortality table on or before January 1, 2014, and thereafter every 10 years. Please refer to PERAC Memo #19/2006 which is intended to supplement PERAC Memo #2/2006.

Retirement Boards must immediately identify all members who retired for superannuation, accidental or ordinary disability or termination retirement and selected Option A or Option B between July 1, 2004 and December 27, 2004. If any of these members have died, the Board must ascertain whether there is a surviving spouse.

After the eligible members and surviving spouses have been identified, each must be notified of his or her one time right to select a different Option. This notification must be issued as soon as practicable so the individuals have ample time to make the election and file the application on or before July 1, 2006. At a minimum, this notification should advise the individual that they may be able to select a new Option and should urge the member to contact the Board for an estimate of the new allowance and any repayment that will be required if a different option is selected.

Retirement Boards may use the PERAC Choice of Retirement Option Form at Retirement for retirees or surviving spouses to apply to make the election. The form should clearly indicate that the application is filed as the result of Chapter 143 of the Acts of 2005. The application to elect a new Option must be filed with the Board on or before July 1, 2006. The Retirement Board must process and implement the Option change within 180 days of the date that the member files the application. If the retiree or surviving spouse selects Option C, the beneficiary must have been eligible to be so designated on the date of the member's retirement. The new allowance becomes effective retroactively to the date of the member's retirement.

If the change in the Option selection results in an overpayment due to the Board, the member must repay the amount overpaid. The Board may make appropriate adjustments to the retiree's or surviving spouse's future allowance, or arrange for appropriate repayments, upon such terms and conditions as the board may prescribe, so as to recover any overpayments resulting from the prior election. Boards cannot impose interest on these repayments. Repayment of overpayments as the result of the prior Option selection cannot be waived. If the retiree selected Option B and has died, resulting in the distribution of the member's annuity account, such distribution shall be repaid to the retirement system in one lump sum. Boards may not waive repayment of an Option B distribution or allow for installment payments to repay this distribution.

Any calculations that are resubmitted to PERAC for approval should include a new calculation sheet and the new Choice of Retirement Option Form at Retirement.

PERAC has received inquiries about whether a retiree who selected Option B can choose Option B again under Chapter 143 of the Acts of 2005 to take advantage of the new mortality table. Chapter 143 of the Acts of 2005 states in pertinent part:

[a]ny person who retired under chapter 32 between July 1, 2004 and December 27, 2004, inclusive, or the surviving spouse of any such person who is deceased, who elected Option (a) or Option (b) of subdivision (2) may change such selection to Option (b) or Option (c) of said subdivision (2).

Clearly, the language of Chapter 143 of the Acts of 2005 allows a person who chose Option A or Option B to change such Option to Option B or Option C. Accordingly, a person who has chosen Option B may select Option B again under Chapter 143 of the Acts of 2005.

Chapter 143 of the Acts of 2005

AN ACT RELATIVE TO THE MORTALITY TABLE FOR PUBLIC EMPLOYEES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 12 of chapter 32 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following subdivision:-

(4) Any person who retired under chapter 32 between July 1, 2004 and December 27, 2004, inclusive, or the surviving spouse of any such person who is deceased, who elected Option (a) or Option (b) of subdivision (2) may change such selection to Option (b) or Option (c) of said subdivision (2). In paying the retirement allowance under the new election, the board may make appropriate adjustments, or arrange for appropriate repayments, upon such terms and condition as the board may prescribe, so as to recover any overpayments resulting from the prior election; provided, however, that any lump sum distribution paid under Option (b) shall be repaid to the retirement system in 1 lump sum on terms and conditions as the board may prescribe. The change of election under this subdivision shall be made on or before July 1, 2006, and shall be retroactive to the date of retirement. The one time election to change retirement options under this subdivision shall be in a manner prescribed by the retirement board; provided, however, that the retirement board shall have 180 days after the submission of an application to change the retirement option filed under this subdivision to implement said change.

SECTION 2. Notwithstanding any general or special law to the contrary, the public employee retirement administration commission shall review the combined table of mortality and select a new table of mortality on or before January 1, 2014 and thereafter every 10 years.

Approved November 22, 2005.